

**Texas Board of Physical Therapy Examiners  
Board Meeting**

**333 Guadalupe, Suite 2-510  
Austin, Texas 78701**

**October 11, 2019  
9:00 am**

---

**Members Present:** Harvey Aikman, PT, DPT, Chair  
Manuel "Tony" Domenech, PT, DPT  
Liesl Olson, PT  
Barbara Sanders, PT, PhD  
Melissa Skillern, PT, DPT  
Jeff Tout, PT,  
Glenda Clausell, Public Member  
Philip Vickers, Public Member

**Member Absent:** Donivan Hodge, Public Member

**Legal Counsel:** Kara Holsinger, Assistant Attorney General  
Rosalind Hunt, Assistant Attorney General

**Staff:** Ralph Harper, Executive Director  
Karen Gordon, PT Coordinator  
Amy Carter, Chief Investigator  
Ebony Holley, Senior Accountant  
Karissa Rodriguez, Program Specialist/RMO  
Michael Briscoe, Licensing Manager

**Guests:** Kathleen Manella, Texas Physical Therapy Association (TPTA) Liaison

---

Agenda items listed under several committee reports begin with the letter D intentionally. No items have been omitted from the board agenda.

1. Call to order
2. Discussion and possible action on excusing board member absences.
3. Public comment
4. Approval of minutes from the July 19, 2019 meeting.
5. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary matters, performance measures, ongoing projects, agency personnel matters, and other agency business.
6. Investigation Committee Report and consideration by the Board of the following items:
  - A. Review and possible action on Agreed Orders for case #s 19193, 19278, 19359, 19396, 19403, 19404, 19417, 19421, 19431, 19440, 19444, 19451, 19458, 19459, 19484.
  - B. Discussion and possible action on the Investigation Committee Meeting of September 12, 2019.
  - C. Discussion and possible action on investigative activities to date.
7. Discussion and possible action on adopting amendments to the following:
  - A. §322.1. (a) Initiation of physical therapy services;
  - B. §341.7. Restrictions on License Renewal and Restoration; and
  - C. §329.6. Licensure by Endorsement and §329.7. Exemptions from Licensure
8. Rules and Practice Committee Report.
  - D. Discussion and possible action on comments and questions regarding proposed amendments to §322.1. Initiation of physical therapy services. pursuant to HB 29 amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session.
  - E. Discussion and possible action on a petition for adoption of rule changes regarding §322.5. Telehealth.

- 1 F. Discussion and possible action on whether or not wet cupping is within the physical therapy scope of  
2 practice.
- 3 9. Education Committee Report:
- 4 D. Discussion and possible action on the Texas Physical Therapy Association (TPTA) Continuing  
5 Competence Approval Program (CCAP) report.
- 6 E. Discussion and possible action on a request(s) for appeal to re-take the FSBPT National Physical  
7 Therapy Examination (NPTE).
- 8 F. Discussion and possible action on a request(s) for review of educational equivalency from a foreign  
9 educated applicant(s).
- 10 G. Discussion and possible action on issues related to physical therapy entry-level education and  
11 continuing competence.
- 12 10. Discussion and possible action on the Federation of State Boards of Physical Therapy (FSBPT)  
13 Annual Meeting and the Compact Commission Annual Meeting in Oklahoma City, OK, October 24 – 27,  
14 2019.
- 15 11. Discussion and possible action on the Board Coordinator's report concerning any item listed on the  
16 agenda and on events that have occurred between this meeting and the Board's last meeting.
- 17 12. Discussion and possible action on the Board Chair's report concerning any item listed on the agenda and  
18 on events that have occurred between this meeting and the Board's last meeting.
- 19 13. Discussion and possible action on long-term planning for future meetings, including future meeting dates  
20 and agenda items.
- 21 14. Adjournment
- 22
- 23
- 

24

25 **1. Call to order**

26

27 Dr. Aikman called roll and determined that a quorum existed. He called the meeting to order at 9:01  
28 a.m.

29

30 **2. Discussion and possible action on excusing board member absences.**

31

32 Motion: To excuse the absence of Donivan Hodge, Public Member.  
33 Made by: Barbara Sanders  
34 Second: Liesl Olson  
35 Motion passed unanimously.

36

37 **3. Public comment**

38

39 There was no public comment.

40

41 **4. Approval of minutes from the July 19, 2019 meeting.**

42

43 Motion: To approve the minutes as submitted.  
44 Made by: Liesl Olson  
45 Second: Glenda Clausell  
46 Motion passed unanimously.

47

48 **5. Discussion and possible action on Executive Director's Report concerning fiscal and**  
49 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**  
50 **and other agency business.**

51

52 Mr. Harper gave the Executive Director's Report that included the following:

- 53 • Agency budget and fiscal status for FY 2019 and 2020 to date;
  - 54 • Performance Measures;
  - 55 • Selection to participate in the Governor's Executive Director Program (GEDP);
  - 56 • Employee status including introduction of the new Senior Accountant, Ebony Holley; and
  - 57 • promotion of Karissa Rodriguez to Program Specialist; and
  - 58 • Upcoming relocation of the agency to the George H. W. Bush building projected for 2022;
- 59

1 **6. Investigation Committee Report and consideration by the Board of the following items:**

2  
3 **A. Review and possible action on Agreed Orders for case #s:** 19193, 19278, 19359, 19396,  
4 19403, 19404, 19417, 19421, 19431, 19440, 19444, 19451, 19458, 19459, 19484.

5  
6 The Board reviewed and ratified the following Agreed Orders presented by Ms. Carter: #s 19278,  
7 19359, 19396, 19403, 19417, 19421, 19431, 19440, 19444, 19458, 19459, 19484.

8  
9 The Board reviewed and ratified the Agreed Order for license reinstatement of case #19451.

10  
11 The Board reviewed case #19404.

12  
13 Motion: To temporarily suspend the license of case #19404 on an emergency basis.  
14 Made by: Liesl Olson  
15 Second: Barbara Sanders.  
16 Motion passed unanimously.

17  
18 **B. Discussion and possible action on the Investigation Committee Meeting of September**  
19 **12, 2019.**

20  
21 Ms. Carter reported that the Committee reviewed 125 cases and issued 14 Agreed Orders with 13  
22 being accepted. There was one informal conference held for reinstatement of licensure.

23  
24 **C. Discussion and possible action on investigative activities to date.**

25  
26 Ms. Carter reported on performance measures, on-site investigation visits, and school  
27 presentations since the last meeting.

28  
29 Dr. Aikman recessed the Board at 9:55 a.m.

30 Dr. Aikman called the Board back into session at 10:02 a.m.

31  
32 Dr. Aikman reordered the agenda as follows: #9. Education Committee Report; then #8. Rules and  
33 Practice Committee Report; then #7. Discussion and possible action on adopting amendments. The  
34 remainder of the agenda will follow in order #10 - #14. There were no objections to the reordering of  
35 the agenda.

36  
37 **9. Education Committee Report:**

38  
39 **D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)**  
40 **Continuing Competence Approval Program (CCAP) report.**

41  
42 Dr. Sanders reported that the quarterly CCAP report was submitted by TPTA but that there was no  
43 TPTA staff present to answer questions. The Committee instructed Ms. Gordon to contact TPTA  
44 regarding the following:

- 45 • Why is there still a large number of Non-Issue Applications in the greater than 4 week
- 46 timeframes?
- 47 • Where was the September CCAP Application Processing Data report?
- 48 • Why aren't the following minimum requirements as specified in the MOU being reported:
  - 49 ○ Number of continuing competence activities approved, denied, and pending
  - 50 approval;
  - 51 ○ Types of issues with applications;
  - 52 ○ Number of peer reviewers and panels per category;
  - 53 ○ Participation numbers for online repository system.

54  
55 **E. Discussion and possible action on a request(s) for appeal to re-take the National**  
56 **Physical Therapy Examination (NPTE).**

Dr. Sanders reported that there were no requests for appeal to re-take the NPTE but that one candidate who previously appealed and was approved to take the PTA NPTE re-took the exam on October 3, 2019 and did not pass. She also reported that there are 4 candidates that have been approved for the PT exam that are pending testing.

**F. Discussion and possible action on a request(s) for review of education equivalency from a foreign educated applicant(s).**

Dr. Sanders reported that the Committee reviewed three requests for review of education equivalency and brings forth the following motion.

Motion: To recommend that the education of all three applicants be deemed substantially equivalent.

Made by: Committee

Second: None needed.

*Motion passed unanimously.*

**G. Discussion and possible action on issues related to physical therapy entry-level education and continuing competence.**

Dr. Sanders reported that he Committee reviewed a letter from Foreign Academic Credentialing Tools and Services (FACTS) requesting formal acknowledgement by the board to accept their credential evaluations for non-CAPTE graduates. The Committee determined that there is no critical need for additional credentialers, and that FACTS has no proven track record to consider at this point.

**8. Rules & Practice Committee Report:**

**D. Discussion and possible action on comments and questions regarding the proposed amendment to §322.1. Initiation of physical therapy services. pursuant to HB 29 amendments to Sec. 453.301, Occupations Code during the 86<sup>th</sup> Legislative Session.**

Mr. Vickers reported that the Committee reviewed and discussed the comments received regarding the proposed rule amendment and determined that no changes were recommended based on the comments. He also reported that the Committee discussed the questions that had been submitted and instructed Ms. Gordon to update the online PT Treatment without Referral FAQs accordingly.

Mr. Vickers reported that the Committee reviewed and discussed the draft of the Physical Therapy Treatment without Referral Disclosure form.

Motion: To recommend approving the Physical Therapy Treatment without Referral Disclosure form.

Made by: Committee

Second: None needed

*Motion passed unanimously.*

Ms. Gordon was instructed to post the form to the website and to put out an email notification to licensees regarding its availability online.

**E. Discussion and possible action on a petition for adoption of rule changes regarding §322.5. Telehealth.**

Mr. Vickers reported that the Committee reviewed and discussed the petition and suggested rule changes to add physical therapist assistants as authorized to treat patients via telehealth.

1           Motion:       To recommend proposing the amendment to §322.5. Telehealth.  
2           Made by:     Committee  
3           Second:     None Needed  
4 Motion passed unanimously.

5  
6           **F. Discussion and possible action on whether or not wet cupping is within the physical**  
7           **therapy scope of practice.**  
8

9 Mr. Vickers reported that the Committee reviewed and discussed an article on the use of wet  
10 cupping for persistent nonspecific low back pain that was submitted by a licensee. The Committee  
11 determined that the article that was published in The Journal of Alternative and Complementary  
12 Medicine did not provide enough evidence as to the efficacy to determine that it is within the  
13 physical therapy scope of practice.

14  
15 He also reported that the Committee instructed Ms. Gordon to notify the licensee and invite him to  
16 provide more evidence-based literature pertinent to physical therapy for consideration.  
17

18 **7. Discussion and possible action on adopting amendments to the following:**

19       A. §322.1. (a) Initiation of physical therapy services  
20

21           Motion:       To approve adopting the amendment as listed above.  
22           Made by:     Glenda Clausell  
23           Second:     Philip Vickers  
24 Motion passed unanimously.  
25

26 (See Attachment A)  
27

28       B. §341.7. Restrictions on License Renewal and Restoration  
29

30           Motion:       To approve adopting the amendment as listed above.  
31           Made by:     Barbara Sanders  
32           Second:     Liesl Olson  
33 Motion passed unanimously.  
34

35 (See Attachment B)  
36

37       C. §329.6. Licensure by Endorsement and §329.7. Exemptions from Licensure  
38

39           Motion:       To approve adopting the amendments as listed above.  
40           Made by:     Liesl Olson  
41           Second:     Glenda Clausell  
42 Motion passed unanimously.  
43

44 (See Attachment C)  
45

46 **10. Discussion and possible action on the Federation of State Boards of Physical Therapy**  
47 **(FSBPT) Annual Meeting and the Compact Commission Annual Meeting in Oklahoma**  
48 **City, OK, October 24 – 27, 2019.**  
49

50 Liesl Olson presented an update on the motions and candidates for office for the FSBPT Annual  
51 Meeting, and Harvey Aikman presented an overview of the motions and candidates for office for  
52 the Compact Commissions Annual Meeting.  
53

54 **11. Discussion and possible action on the Board Coordinator's report concerning any item**  
55 **listed on the agenda and on events that have occurred between this meeting and the**  
56 **Board's last meeting.**  
57

1 Ms. Gordon reported on the following:

- 2 • Meetings that she had attended since the last Board meeting;
- 3 • Treatment without referral updates and FAQs posted online;
- 4 • TX JAM item writing as the result of treatment without referral;
- 5 • CC Audit results;
- 6 • Total number of PTs, PTAs as of 10/01/2019, and and PT facilities as of 8/31/2019;
- 7 • NPTE Pass/Fail statistics for 2019;
- 8 • TX JAM statistics; and
- 9 • PT Compact statistics.

10  
11 **12. Discussion and possible action on the Board Chair's report concerning any item listed**  
12 **on the agenda and on events that have occurred between this meeting and the Board's**  
13 **last meeting.**

14  
15 Dr. Aikman reported that he would be participating in a panel regarding the HB 29 statute and rules  
16 amendments at the TPTA Annual Meeting in the Woodlands on October 12, 2019 as well as the  
17 Compact Commission Annual Meeting in Oklahoma City, OK on October 27, 2019.

18  
19 He presented appreciation plaques to outgoing Board members Jeff Tout and Philip Vickers and to  
20 Kara Holsinger, AAG who is moving to a new position in the Attorney General office.

21  
22 **13. Discussion and possible action on long-term planning for future meetings, including**  
23 **future meeting dates and agenda items.**

24  
25 The Board scheduled 2020 meetings as follows: January 16 – 17; April 23 – 24; July 23 – 24; and  
26 October 8 – 9.

27  
28 **14. Adjournment**

29 Motion: To adjourn the meeting.

30 Made by: Jeff Tout

31 Second: Philip Vickers

32 *Motion passed unanimously.*

33  
34  
35 Dr. Aikman adjourned the meeting at 11:25 a.m.

36  
37  
38 **Date reviewed by the Board: 1/17/2020**

39 **Action taken by the Board: approved as submitted**

The Texas Board of Physical Therapy Examiners adopts the amendment to §322.1(a) Initiation of physical therapy services. pursuant to HB 29 amendments to Sec. 453.301, Occupations Code during the 86<sup>th</sup> Legislative Session.

The amendment is adopted with changes to the proposed text as published in the September 06, 2019 issue of the *Texas Register* (44 *TexReg* 4840) as clarification of statute from comments received.

The amendment is proposed in order to delineate the qualifications beyond licensure, additional requirements, and limitations for a physical therapist to treat a patient without a referral from a qualified healthcare practitioner.

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to provide written/oral commentary concerning the proposed amendment of this rule. The 30-day comment period ended on October 6, 2019. A summary of comments relating to the amendment and the Board's responses follow:

Comments on §322.1. (a)(2)(D) and (E), treatment without a referral for not more than 10 or 15 consecutive business days:

Symmetry Physical Therapy commented that the consecutive business day verbiage does not take into account the "real life" application of HB 29 provisions as enabling improved access would rationally entail allowing patients to choose the 10 (or in some cases, 15) days during which they are available for treatment, taking into account each patient's unique life circumstances.

Board's Response: Amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session authorize treatment without a referral for 10 or 15 consecutive business days depending on the qualifications of the physical therapist. The Board's rules must comply with the statute, which does not allow for flexibility of the 10 or 15 days of treatment without referral. For this reason, the Board declines to make changes to the rules based on the comment.

Comments on §322.1. (a)(2)(D)(ii), professional liability insurance coverage:

The University of Texas Medical Branch (UTMB) at Galveston commented that language to the effect that a physical therapist who is a State employee covered under the Texas Tort Claims Act be added as an alternative to the requirement that a physical therapist be covered by professional liability insurance in the minimum amount of \$100,000 per claim and \$300,000 aggregate per year. UTMB also commented that requiring State-employed physical therapists who are covered under the Texas Tort Claims Act to secure additional liability insurance protection either personally or through their State-employer would be duplicitous and would be an unnecessary cost burden on individual therapists, but also on the State of Texas as well.

Board's Response: Amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session require that a physical therapist who treats a patient without a referral be covered by professional liability insurance and authorizes the Board to set the minimum amount of coverage. The Board's rules must comply with the statute, which does not include coverage under the Texas Tort Claims Act as an alternative to coverage by professional liability insurance. For this reason, the Board declines to make changes to the rules based on the comment.

Comments on §322.1. (a)(2)(D)(iii), possession of a doctoral degree in physical therapy or 30 CCUs in the area of differential diagnosis:

One (1) individual commented that a clinical or terminal doctoral degree in a related field such as a PhD in Motor Learning should qualify a PT to treat for 10 days without a referral if the degree advances the clinical expertise by increasing evidence based practice knowledge related to the clinical practice of physical therapy.

One (1) individual commented that the 30 CCUs in differential diagnosis option is vital for many experienced PTs to have a pathway to treat without a referral.

One (1) individual commented that more guidance on what must be included in the required differential diagnosis course for PTs who work in pediatric settings would be helpful.

One (1) individual commented that a PTA normally treats with the supervision of a PT. However, if a PT without a DPT or experience cannot treat without referral, it would not be fair if a PTA could.

One (1) foreign-educated individual commented that because his credentials were evaluated and found equivalent to an entry-level DPT, the law should apply to him as a DPT.

The Texas Physical Therapy Association (TPTA) commented that the interpretation that any doctoral degree in physical therapy qualifies a PT to treat a patient without a referral for 10 business days, and allowing the 30 hours of CCUs in differential diagnosis for PTs without a doctoral degree to have been taken any time since their licensure, to allow the CCUs to be tickled out of larger courses, and not to require the CCUs to be approved through the Continuing Competence Approval Program (CCAP) will be beneficial for TPTA members and licensees in general, and to patients who will be able to access physical therapy more readily.

Board's Response: Amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session authorize a physical therapist to provide treatment without a referral for not more than 10 consecutive business days if the physical therapist possesses a doctoral degree in physical therapy or has completed at least 30 CCUs in the area of differential diagnosis. The Board's rules must comply with the statute, which does not include other clinical or terminal doctoral degrees in a related field as qualifications sufficient to allow a physical therapist to provide up to 10 consecutive business days of treatment without a referral and does not permit equivalent education credentialing as a substitute for a doctoral degree in physical therapy. The Board followed the language of the statute which requires 30 CCUs in the area of differential diagnosis. For these reasons, the Board declines to make changes to the rules based on the individuals' comments.

Comments on §322.1. (a)(2)(E), completion of a doctoral degree in physical therapy and a residency or fellowship to qualify for fifteen (15) consecutive business days of treatment without a referral:

Fifteen (15) individuals commented that the qualifications of a physical therapist with a doctoral degree in physical therapy to provide up to 15 days of treatment without a referral should also include those who are a Board Certified Clinical Specialist by the American Board of Physical Therapy Specialties (ABPTS) as the advanced knowledge and skills of a certified specialist are equivalent to or exceed those attained through completion of a physical therapy residency or fellowship.

Symmetry Physical Therapy commented that other advanced practice licensure or designation, especially the Advanced Practice Board Certified Specialization designation recognized by the American Physical Therapy Association, should qualify a physical therapist for 15 treatment days without a referral, and that a physical therapist that completes 30 CCUs in differential diagnosis and has an advanced practice certification should be allowed for the 15 treatment days without a referral.

Riata Therapy Specialists commented that Board Certified Specialists should be allowed the 15 business days instead of 10 business days as specialist have shown an increased level of education and commitment to the profession and should have a high level of expertise to be allowed the 15 day access to patients.

One (1) individual commented that a physical therapist with a specialization should have unlimited treatment without a referral as long as treatment is provided in the specialty area.



One (1) individual commented that entry level DPT education with clinical internships prepares a physical therapist for fifteen days of access to patients.

Two (2) individuals commented that a physical therapist who has attained a BS or MS in physical therapy and has completed a residency or fellowship program is well qualified to treat a patient for 15 days without a referral and has demonstrated advanced clinical reasoning and skill that exceed those learned in an entry level DPT program.

One (1) individual commented that training and becoming licensed as an athletic trainer should qualify as a fellowship as the training was intensive in orthopedics, acute care, injury management, and rehab of injury.

Board's Response: Amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session authorize a physical therapist to provide treatment without a referral for 15 consecutive business days only if the physical therapist has completed a doctoral degree and has completed a residency or fellowship. The Board's rules must comply with the statute, which does not include specialization certification, advance practice licensure or designation, completion of 30 CCUs in differential diagnosis and an advanced practice certification, entry level education clinical internships, BS or MS degrees, or training and licensure as an athletic trainer as qualifications sufficient to allow a physical therapist to provide up to 15 consecutive business days of treatment without a referral. Additionally, the statute does not authorize unlimited treatment without referral within a specialty area. For these reasons, the Board declines to make changes to the rules based on the individuals' comments.

Comments on §322.1. (a)(2)(F), disclosure form:

One (1) individual commented that since public schools do not seek reimbursement for PT related services, the disclosure does not seem to apply to this practice setting.

Board's Response: Amendments to Sec. 453.301, Occupations Code during the 86th Legislative Session require that a physical therapist who treats a patient without a referral must obtain from the patient a signed disclosure on a form prescribed by the Board. The Board is not authorized to exempt a practice setting if reimbursement is not sought. For this reason, the Board declines to make changes to the rules based on the individual's comments.

Other Comments:

Symmetry Physical Therapy commented that they were disappointed that the dissemination of the proposed amendment to the PT Rules did not occur much earlier in the year in order to have an ongoing collaborative process incorporating the collective expertise of the statewide physical therapist community as the legislation was making its way towards its final destination on the Governor's desk. They also commented that it was unfortunate that the final adoption of any changes to the PT Rules will not occur until November which is 2 full months after the provisions of HB 29 go into effect.

Board's Response: The Board is not authorized to propose amendments to PT Rules until a bill becomes law and did so at its next scheduled meeting of July 19, 2019. HB 29 requires the Texas Board of Physical Therapy Examiners to adopt rules necessary to implement Section 453.301, Occupations Code by November 1, 2019. For these reasons, the Board declines to make changes to the rules based on the comments.

One (1) individual commented that since a chiropractor, who is no better educated as compared to an entry level DPT, has direct access and autonomy, a DPT should have access and autonomy without restrictions. The individual also commented that chiropractors should be removed from the list of qualified healthcare practitioners who can refer patients to physical therapy.

One (1) individual commented that Texas needs to stop allowing new DPT programs to be granted into existence as the saturation of programs is at a tipping point, and there are too many new DPT graduates flooding into the Texas market.

Board's Response: Sec. 453.001, Occupations Code includes chiropractor as a qualified licensed health care professional who can make referrals. The Board does not have the authority to remove chiropractors from the statute. The Board does not have the authority to prevent qualified DPT programs from opening and obtaining accreditation. For these reasons, the Board declines to make changes to the rules based on the comments.

The amended rule is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

<rule>

#### §322.1. Provision of Services.

##### (a) Initiation of physical therapy services.

(1) Referral requirement. Except as authorized by paragraph (2) of this subsection, a physical therapist is subject to discipline from the board for providing physical therapy treatment without a referral from a qualified healthcare practitioner licensed by the appropriate licensing board, who within the scope of the professional licensure is authorized to prescribe treatment of individuals. The list of qualifying referral sources includes physicians, dentists, chiropractors, podiatrists, physician assistants, and advanced nurse practitioners.

##### (2) Exceptions to referral requirement.

(A) A PT may evaluate without referral.

(B) A PT may provide instructions to any person who is asymptomatic relating to the instructions being given without a referral, including instruction to promote health, wellness, and fitness.

(C) Emergency Circumstances. A PT may provide emergency medical care to a person after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity without referral if the absence of immediate medical attention could reasonably be expected to result in a serious threat to the patient's health, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(D) A PT may treat a patient for an injury or condition without a referral for not more than 10 consecutive business days if the PT:

(i) has been licensed to practice physical therapy for at least one year;

(ii) is covered by professional liability insurance in the minimum amount of \$100,000 per claim and \$300,000 aggregate per year; and

(iii) either:

(I) possesses a doctoral degree in physical therapy from:

(-a-) a program that is accredited by the Commission on Accreditation in Physical Therapy Education; or

(-b-) an institution that is accredited by an agency or association recognized by the United States secretary of education; or

(II) has completed at least 30 CCUs in the area of differential diagnosis.

(E) A PT who has completed a residency or fellowship may treat a patient without a referral for not more than 15 consecutive business days if he possesses a doctoral degree as described in subparagraph

(D)(iii)(I)(-a-) or (-b-) of this paragraph and has satisfied the conditions set forth in subparagraph (D)(i) and (ii) of this paragraph.

(F) A PT must obtain a referral from a qualified healthcare practitioner before continuation of treatment that exceeds that which is authorized in subparagraph (D) or (E) of this paragraph.

(G) A PT who treats a patient without a referral under subparagraph (D) or (E) of this paragraph must obtain a signed disclosure on a form prescribed by the board prior to the initiation of treatment. The disclosure form will be made available on the board's website.

(3) Methods of referral. A referral may be transmitted by a qualifying referral source in the following ways:

(A) in a written document, including faxed and emailed documents; or

(B) verbally, in person or by telephone. If a referral is transmitted verbally, whether in person or by telephone, it must be received, recorded and signed by the PT, PTA or other authorized personnel, and include all of the information that would appear on a written referral.

(b) Evaluation and screening.

(1) Evaluation. Physical therapy treatment may not be provided prior to the completion of an evaluation of the patient's condition by a PT.

(2) PTAs may screen patients designated by a PT as possible candidates for physical therapy services. Screening entails the collection of uniform information from all patients screened using a predetermined, standardized format. The information collected is delivered to the supervising PT. Only a PT may determine whether further intervention for patients screened is necessary.

(c) Physical therapy plan of care development and implementation.

(1) The PT must develop a written plan of care, based on his evaluation, for each patient.

(2) Treatment may not be provided by a PTA or aide until the plan of care has been established.

(3) The plan of care must be reviewed and updated as necessary following a reevaluation of the patient's condition.

(4) The plan of care or treatment goals may only be changed or modified by a PT.

(5) A PTA may modify treatment techniques as indicated in the plan of care.

(6) A PT or PTA must interact with the patient regarding his/her condition, progress and/or achievement of goals during each treatment session.

(d) Reevaluation.

(1) Provision of physical therapy treatment by a PTA or an aide may not continue if the PT has not performed a reevaluation:

(A) at a minimum of once every 60 days after treatment is initiated, or at a higher frequency as established by the PT; and

(B) In response to a change in the patient's medical status that affects physical therapy treatment, when a change in the physical therapy plan of care is needed, or prior to any planned discharge.

(2) A reevaluation must include:

(A) direct physical therapist-to-patient interaction; and

(B) a review of the plan of care with appropriate continuation, revision, or termination of treatment

(e) Documentation of treatment.

(1) At a minimum, documentation of physical therapy services must include the following:

(A) any referral authorizing treatment;

(B) the initial examination and evaluation;

(C) the plan of care;

(D) documentation of each treatment session by the PT or PTA providing the services;

(E) reevaluations as required by this section;

(F) any conferences between the PT and PTA, as described in this section; and

(G) the discharge summary.

(2) The PTA must include the name of the supervising PT in his documentation of each treatment session.

(3) Physical therapy aides may not write or sign any physical therapy documents in the permanent record. However, a physical therapy aide may enter quantitative data for tasks delegated by the supervising PT or PTA.

(4) Discharge Summary. The PT must provide final documentation for discharge of a patient, including patient response to treatment at the time of discharge and any necessary follow-up plan. A PTA may participate in the discharge summary by providing subjective and objective patient information to the supervising physical therapist.

The Texas Board of Physical Therapy Examiners adopts the amendment to §341.7. Restrictions on License Renewal and Restoration pursuant to SB 37 amendments to CHAPTER 56. ACTION AGAINST RECIPIENTS OF STUDENT FINANCIAL ASSISTANCE, Occupations Code during the 86<sup>th</sup> Legislative Session. The amendment is adopted without changes to the proposed text as published in the September 06, 2019 issue of the *Texas Register* (44 *TexReg* 4843).

The amendment is adopted in order to eliminate default on a student loan as a restriction for obtaining, renewing, or restoring a physical therapy license.

One (1) individual commented that as an honorable profession, PTs/PTAs should be good upstanding citizens and honor their legal, ethical and moral obligation to repay money they borrowed to receive their PT/PTA degree as they made a choice to borrow money and it is unethical not to pay it back.

Board's Response: The Board's rules must comply with the statute, which prohibits a licensing authority from denying renewal or restoration of a license based on default on a student loan. For this reason, the Board declines to make changes to the rules based on the comment.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

<rule>

§341.7. Restrictions on License Renewal and Restoration.

The board will not renew a license if a licensee has defaulted on court or attorney general's notice of child support. Upon receipt of notification that a repayment agreement has been established, the license shall be renewed.

The Texas Board of Physical Therapy Examiners adopts the amendments to §329.6. Licensure by Endorsement and §329.7. Exemptions from Licensure pursuant to SB 1200 addition of Sec. 55.0041. RECOGNITION OF OUT-OF-STATE LICENSE OF MILITARY SPOUSE to Chapter 55, Occupations Code during the 86<sup>th</sup> Legislative Session.

The amendment is adopted without changes to the proposed text as published in the September 06, 2019 issue of the *Texas Register* (44 *TexReg* 4841).

The amendments are adopted in order to authorize a military spouse to engage in the practice of physical therapy without obtaining a license as a physical therapist or physical therapist assistant if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the licensure in this state and the military service member to whom the military spouse is married is stationed at a military installation in this state.

The amendments clarify that a military spouse may qualify to practice under the exemptions set forth in §329.7. Exemptions from Licensure, and may qualify, along with veterans, for a Compact privilege to practice in this state. The reporting requirements for both the military spouse and the agency and the time limit for authorization are delineated. Additionally, the method for determining substantial equivalent licensing requirements and verification of licensure in another jurisdiction are identified. The requirements for the licensee to provide a list of the jurisdictions in which a license is or has been held, and for the licensee to comply with the laws and regulations of physical therapy are added to apply to all categories of licensure exemption in this section.

No public comment was received.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

<rule>

§329.6. Licensure by Endorsement.

(a) Eligibility. The board may issue a license by endorsement to an applicant currently licensed in another state, District of Columbia, or territory of the United States, if they have not previously held a permanent license issued by this board.

(b) Requirements. An applicant seeking licensure by endorsement must:

- (1) meet the requirements as stated in §329.1 of this title (relating to General Licensure Requirements and Procedures);
- (2) provide a score report for the National Physical Therapy Examination sent directly to the board by the board-approved reporting service, or scores on the Registry Examination sent directly to the board by the American Physical Therapy Association. The score reported must have satisfied requirements for licensure in a state at the time the applicant took the exam; and
- (3) provide verification of license from every jurisdiction in which the applicant has held or still holds a license, sent directly to the board by the issuing jurisdiction. The board may accept web-based verification in place of verification sent by another jurisdiction if the board is satisfied that the applicant's license(s) is/are valid.

(c) Licensure of a Military Service Member, Military Veteran, or Military Spouse. The board will waive the application fee and will expedite the issuance of a license by endorsement to a military service member, military veteran, or spouse of a military service member. The applicant must provide official documentation of active duty status or veteran status or the active duty status of the spouse.

(1) A military spouse may qualify to practice in this state under the exemption described in §329.7(b)(5) Exemptions from Licensure if the military service member to whom a military spouse is married is stationed at a military installation in this state.

(2) A military spouse or veteran may qualify to practice in this state under a Compact privilege as described in CHAPTER 348. PHYSICAL THERAPY LICENSURE COMPACT.

(d) Provisional licensure. The board may grant a provisional license to an applicant who is applying for licensure by endorsement if there is a delay in the submission of required documents outside the applicant's control. The applicant must submit the provisional license fee as set by the executive council. The board may not grant a provisional license to an applicant with disciplinary action in their licensure history. The provisional license is valid for 180 days, or until a permanent license is issued or denied, whichever is first.

\*n

### **Statutory Authority**

The amendments are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

<rule>

### **§329.7. Exemptions from Licensure.**

(a) The following categories of individuals practicing physical therapy in the state are exempt from licensure by the board.

(1) A person practicing physical therapy in the U.S. armed services, U.S. Public Health Service, or Veterans Administration in compliance with federal regulations for licensure of health care providers; and

(2) A person who is licensed in another jurisdiction of the U.S. and who, by contract or employment, is practicing physical therapy in this state for not more than 60 days in a 12 month period for an athletic team or organization or a performing arts company temporarily competing or performing in this state.

(b) The following categories of individuals practicing physical therapy in the state are exempt from licensure by the board and must notify the board of their intent to practice in the state.

(1) A physical therapist who is licensed in good standing in another jurisdiction of the U.S. if the person is engaging, for not more than 90 days in a 12 month period and under the supervision of a physical therapist licensed in this state, in a special project or clinic required for completion of a post-professional degree in physical therapy from an accredited college or university.

(A) The individual must submit written notification stating the following:

(i) the beginning and ending dates of the period of practice;

(ii) the name of the institution or facility in which the individual will be practicing;

(iii) the name of the supervising physical therapist; and

(iv) a list of the jurisdictions in which the individual has held or currently holds a license.

(B) Written notification must be received by the board prior to the start date of the practice.

(2) A physical therapist or a physical therapist assistant who is licensed in good standing in another jurisdiction of the U.S. or authorized to practice physical therapy without restriction in another country

if the person is engaging in patient contact and treatment as either an instructor or participant while attending an educational seminar or activity in this state for not more than 60 days in a 12 month period.

(A) The individual must submit written notification stating the following:

- (i) the beginning and ending dates of the educational activity;
- (ii) the name of the course or activity sponsor;
- (iii) the location of the educational activity; and
- (iv) a list of the jurisdictions in which the individual has held or currently holds a license.

(B) Written notification must be received by the board prior to the start date of the educational activity.

(3) A physical therapist or physical therapist assistant licensed in good standing in another jurisdiction of the U.S. who is practicing physical therapy for not more than 60 days during a declared local, state, or national disaster or emergency.

(A) The individual must submit written notification stating the following:

- (i) the beginning and ending dates of the period of practice;
- (ii) the name of the facility in which the individual will be practicing; and
- (iii) a list of the jurisdictions in which the individual has held or currently holds a license.

(B) Written notification must be received by the board prior to the start date of the practice.

(4) A physical therapist or physical therapist assistant licensed in good standing in another jurisdiction of the U.S. who is displaced from the person's residence or place of employment due to a declared local, state, or national disaster and is practicing physical therapy in this state for not more than 60 days after the date the disaster is declared.

(A) The individual must submit written notification stating the following:

- (i) the beginning and ending dates of the period of practice;
- (ii) the name of the facility in which the individual will be practicing; and
- (iii) a list of the jurisdictions in which the individual has held or currently holds a license.

(B) Written notification must be received by the board prior to the start date of the practice.

(5) A physical therapist or physical therapist assistant licensed in good standing in another jurisdiction of the U.S. who is a military spouse for the period during which the military service member to whom the military spouse is married is stationed at a military installation in Texas.

(A) The military spouse must submit written notification including the following:

- (i) proof of the military spouse's residency in this state;
- (ii) a copy of the military spouse's military identification card; and
- (iii) a list of the jurisdictions in which the military spouse has held or currently holds a license.

(B) The board will issue a written confirmation stating that:

- (i) licensure in other jurisdictions has been verified;
- (ii) the military spouse is authorized to practice physical therapy in the state; and
- (iii) authorization does not exceed three years from the date the confirmation is received.

(c) For individuals exempt from licensure under (b), the following applies:

- (1) Any jurisdiction of the U.S. that licenses physical therapists and physical therapist assistants is deemed to have substantially equivalent requirements for licensure;
- (2) Verification of licensure in other jurisdictions may be through online primary source verification; and
- (3) The individual must comply with all of the laws and regulations applicable to the provision of physical therapy in Texas.